

CHAPTER 10

PUBLIC NUISANCES

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10.01 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.

10.02 PUBLIC NUISANCE DEFINED. A public nuisance is a thing, act, occupation, condition, or use of property that shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

10.03 PUBLIC NUISANCES AFFECTING HEALTH. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definitions of §10.02 above:

- (1) **ADULTERATED FOOD.** All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) **UNBURIED CARCASSES.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not

buried or otherwise disposed of in a sanitary manner within 24 hours after death.

- (3) **BREEDING PLACES FOR VERMIN, ETC.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not flytight.
- (6) **ANIMALS.** All animals running at large. (See also §9.09 of this Code.)
- (7) **AIR POLLUTION.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the City limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (8) **NOXIOUS WEEDS** (2031 10/10/2000, 2245 01/09/2007) This ordinance is intended to protect the fundamental right of the residents of Baraboo to choose their own landscaping whether it be conventional bluegrass turf, natural heritage, ornamental

garden, native plant communities, or a combination thereof. The restrictions that have been placed on specific plant species are based upon the protection of public health, safety, and/or welfare. The City's weed commissioners who enforce this ordinance have received training to thereby differentiate between people who are growing permitted natural landscapes versus those with non-permitted growth. The City of Baraboo acknowledges and encourages homeowners to include plants native to Wisconsin within their landscaping because these plants provide a hardy, drought resistant, low maintenance yard while benefiting the environment. Native plants, once established, save time and money by eliminating or significantly reducing the need for fertilizers, herbicides, water, and lawn maintenance equipment. Native plants are also beneficial because they help reduce air pollution because they do not require mowing, they attract a variety of birds, butterflies and other wildlife, and their use promotes biodiversity preservation and stewardship of our natural heritage.

For the purpose of this subsection, the term "Noxious Weeds" shall be defined as follows:

(a) All noxious weeds as defined in §66.0407, Wis. Stats. These defined weeds are Canada Thistle (*Cirsium arvense*), Leafy Spurge (*Euphorbia esula*), and Field Bindweed aka Creeping Jenny (*Lysimachia nummularia*).

(b) Plants that are either:

1. Invasive. An invasive plant is one that is not indigenous to Wisconsin, is ecologically aggressive, and/or tends to displace indigenous plants. Invasive plants may be forbs, shrubs, trees, grasses or vines. Without seeking to enumerate all plants of this category, examples of plants falling within this category include:

- Purple Loosestrife (*Lythrum salicaria*)
- Garlic Mustard (*Alliaria petiolata*)
- Black Locust (*Robinia pseudoacacia*)
- Common Teasel (*Dipsacus sylvestris*) and Cut-leaved Teasel (*Dipsacus laciniatus*)
- Common Tansy (*Tanacetum vulgare*)
- Japanese Knotweed (*Fallopia japonica*, synonymous names: *Polygonum cuspidatum*, *Reynoutria japonica*)

- Common (*Rhamnus cathartica*) and Glossy Buckthorn (*Frangula alnus*)
- Exotic bush honeysuckles (*genus Lonicera*, including but not limited to Tartarian, Japanese and Morrow's honeysuckles)
- Oriental Bittersweet (*Celastrus orbiculatus*), and
- Any plant designated invasive by the Wisconsin Department of Natural Resources or the Invasive Plants Association of Wisconsin.

2. Have toxicological impacts to humans. These plants include those that are poisonous on contact as well as plants that are poisonous when ingested. Without seeking to enumerate all plants of this category, examples of plants falling within this category include:

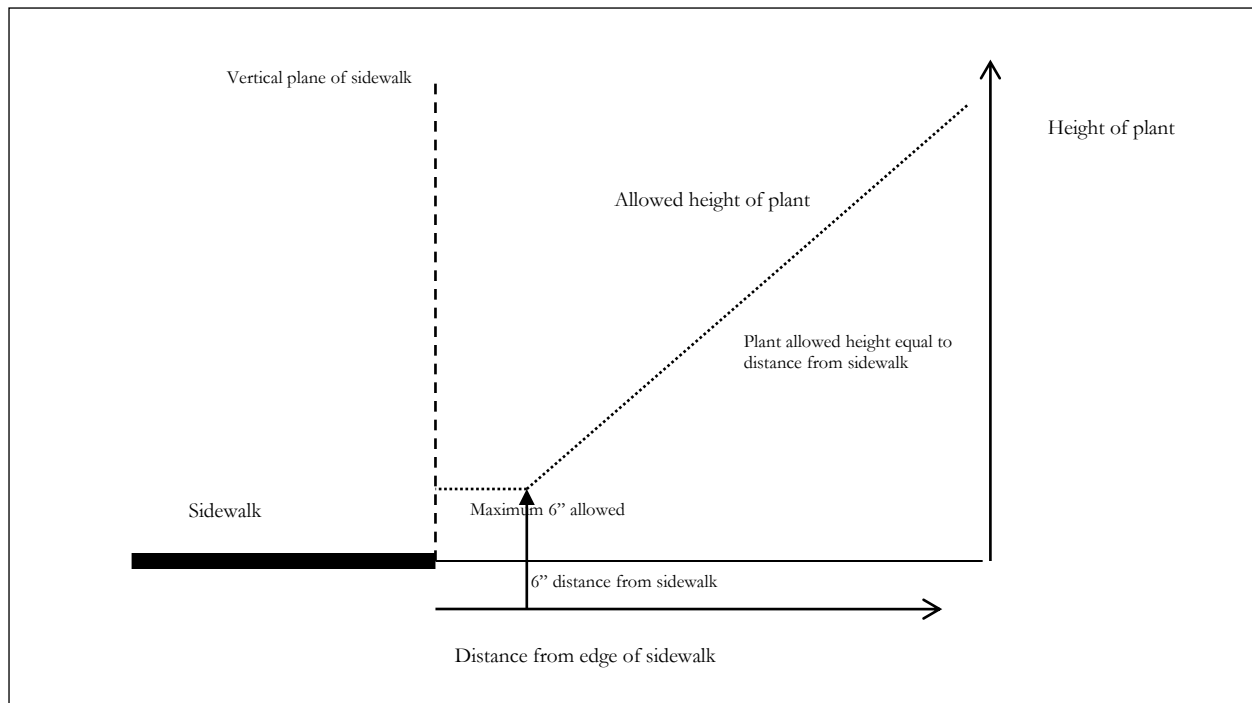
- Poison Ivy (*Rhus radicans*, *Toxicodendron radicans*, or *Rhus toxicodendron*)
- Poison Sumac (*Toxicodendron bemix*, *Toxicodendron vernix* or *Rhus vernix*)
- Stinging Nettle (*Urtica dioica*)
- Wild Parsnip (*Pastinaca sativa*)
- Poison Hemlock (*Conium maculatum*)
- Bitter Nightshade (*Solanum dulcamara*)
- Jimson Weed (*Datura stramonium*)
- Spotted Knapweed (*Centaurea maculosa*)

3. Harmful to human health by means of aggravating allergies or that are thorny, barbed plants. Without seeking to enumerate all plants of this category, examples of plants falling within this category include:

- Common ragweed (*Ambrosia artemisiifolia*)
- Giant Ragweed (*Ambrosia trifida*)
- Bull thistle (*Cirsium vulgare*)
- Beggar Ticks (*Bidens frondosa*)
- Cocklebur (*Xanthium strumarium*)
- Sandburs (*Cenchrus longispinus*)

(c) RANK GROWTH. Untended or unmanaged growth of herbaceous vegetation on any property within the City which is visible from any public way, street, sidewalk or alley, or that poses a substantial fire risk, except that rank growth shall not include herbaceous vegetation located in natural areas, including riverbanks, agricultural areas, and areas not near areas of human habitation or human use.

1. Untended growth is vegetative growth that is not maintained through labor and care. Lawns composed principally of fescues, bluegrasses, rye grass, or other traditional lawn grasses are untended if over twelve inches in height. Indications of growth being tended include Buffer zones to neighboring property, substantially free of noxious and nuisance plants listed in subs. (a) and (b), above, and improvements to the yard, including bird houses, bird feeders, and fountains or bird baths.
- i. Unmanaged growth is growth that is not cared for or directed with intention and a degree of skill.
- ii. No herbaceous vegetation, other than traditional lawn grasses, shall be allowed to grow or be maintained closer to a public sidewalk than the height of the plant. An exception to the height requirement will be allowed for plants growing behind a legal fence, so long as the vegetation does not cross the vertical plane of the sidewalk. However, all herbaceous vegetation within six inches of a public sidewalk is allowed a height of six inches. No vegetation shall be allowed to grow or be maintained within the vertical plane established by the edge of a public sidewalk above a height of six inches. (See diagram below.) An exception to the enforcement of plants growing closer to the sidewalk than their height permits will be granted for 2007, so as to allow property owners an opportunity to become acquainted with this ordinance and to transplant vegetation or modify their lawns accordingly. Despite this exception, no vegetation shall be allowed to cross the vertical plane of the sidewalk.
- iii. Natural landscaping techniques are neither prohibited nor discouraged. All natural landscaping lawns shall be tended, ordered and managed. Property owners intending to use natural landscaping techniques are encouraged to consult with outside sources and experts to determine the best plantings and layout for their lawn. The City has assembled materials relating to natural lawns and plantings at the Public Library. The City does not advocate the use of burning to maintain natural plantings and encourages the use of other horticultural techniques. The use of burning to maintain a natural lawn is regulated within Chapter 5 of the Baraboo Code of Ordinances. Natural landscaping lawns will ideally maintain a mown border between the plantings and all buildings, structures, sidewalks, driveways, and contiguous properties.



- (9) **WATER POLLUTION.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (10) **NOXIOUS ODORS, ETC.** Any use of property, substances or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.
- (11) **STREET POLLUTION.** Any use of property that shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.
- (12) **PESTICIDE APPLICATION.** The application, or causing of the application, of any pesticide, as defined in §946.67(25), Wis. Stats., in such a manner as to endanger the health of persons within the City.

10.03A PUBLIC NUISANCES AFFECTING HEALTH, SAFETY, AND THE USE AND VALUE OF PROPERTY RESULTING FROM INADEQUATE BUILDING MAINTENANCE.

(2270 11/27/07) The City has studied the concerns of citizens with regard to property that is not properly maintained by its owners or

occupants. Such property poses a threat to the health of occupants, and adversely affects the property values of adjacent property, and other property in its neighborhood. The City of Baraboo, therefore, declares that improper and inappropriate building maintenance is a public nuisance affecting health, safety, and the use and value of property. Every building shall be maintained to be weather and water tight, and free from conditions suggestive of deterioration or inadequate maintenance. Proper building maintenance shall include, at a minimum, the following:

- (1) Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin, and shall be without graffiti, without missing bricks or mortar, and with properly maintained soffit and fascia.
- (2) Basements, cellars, and crawl spaces shall be free of standing water and hazards.
- (3) All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity. Any and all damaged or deteriorating materials shall be replaced.

- (4) Roofs shall be free of leaks, with shingles in good condition (not worn or missing), and with gutters and downspouts in good repair and free of obstructions. Roof members, covering, and flashing shall be structurally sound and tight so as to prevent the entrance of moisture and be maintained by renewal, repair, waterproofing or other suitable means. Roof drainage shall be adequate to prevent rainwater from causing dampness in the interior portion of the structure.
- (5) Chimneys shall be structurally safe and sound, in good repair, properly weather-coated, and without loose or missing bricks. Chimneys shall be free of cracks, holes, or missing portions and maintained in sound condition.
- (6) Except for materials that have been designed or manufactured to remain untreated, all exterior wood, composition, or metal surfaces shall be protected from the elements by paint or other protective coverings. Surfaces shall be maintained so as to be kept clean and free of flaking, loose, or peeling paint or covering.
- (7) All cornices, entablatures, bell courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

10.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of §10.02 of this chapter:

- (1) **DISORDERLY HOUSES.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) **GAMBLING DEVICES.** All gambling devices and slot machines.
- (3) **UNLICENSED SALE OF LIQUOR AND BEER.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by this Code.

- (4) **CONTINUOUS VIOLATION OF CITY ORDINANCES.** Any place or premises within the City where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) **ILLEGAL DRINKING.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws or this Code.

10.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of §10.02 of this chapter:

- (1) **SIGNS, BILLBOARDS, WALLS, ETC.** All signs and billboards, awnings, walls and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety. No signs, billboards, awnings or similar structures shall be supported in whole or in part from the street, sidewalk or public grounds or places below.
- (2) **ILLEGAL BUILDINGS.** All buildings erected, repaired or altered in violation of the provisions of this Code relating to materials and manner of construction of buildings and structures within the City.
- (3) **UNAUTHORIZED TRAFFIC SIGNS.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any device, sign or signal.
- (4) **OBSTRUCTION OF INTERSECTIONS.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. (See Zoning Code, Ch. 17, for vision clearance triangle regulations.)
- (5) **TREE LIMBS.** All limbs of trees which project over and less than 8 feet above any public sidewalk or less than 15 feet above a street or other public place.

- (6) **DANGEROUS TREES.** All trees that are injurious to public health or safety because of a diseased or damaged condition; and the storage of cut elm wood, unless such wood is debarked or sprayed with an effective elm bark beetle destroying insecticide.
- (7) **FIREWORKS.** All use, possession or display of fireworks except as provided by the laws of the State and §9.05 of this Code.
- (8) **DILAPIDATED BUILDINGS, WALLS AND FOUNDATIONS.** All buildings, walls, foundations, or similar structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use. (1867 05/14/96)
- (9) **WIRES AND CABLES OVER STREETS.** All wires and cables over streets, alleys or public grounds that are strung less than 18 feet above the surface thereof.
- (10) **RESERVED.** (2556 08/04/2020)
- (11) **OBSTRUCTIONS OF STREETS: EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations although made in accordance with this Code, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.
- (12) **UNLAWFUL ASSEMBLY.** Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (13) **SNOW, ICE AND DEBRIS REMOVAL.** All debris not removed, and all snow and ice not removed or sprinkled with salt, ashes, sawdust or sand, as provided in §8.05 of this Code.
- (14) **REFRIGERATORS.** All un-abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or that are not equipped with a device for opening from the inside.
- (15) **OPEN PITS, BASEMENTS, ETC.** All open and unguarded pits, wells, excavations and basements.
- (16) **FLAMMABLE LIQUIDS VIOLATIONS.** Repeated or continuous violations of this Code or the laws of the State relating to the storage of flammable liquids.
- (17) **BLIGHTED BUILDINGS, FENCES, AND PREMISES.** Premises existing within the City which are blighted because of one or more of the following conditions: (2031 10/10/2000)
- Faulty design or construction,
 - Failure to maintain in a proper state of repair,
 - Improper management,
 - The accumulation thereon of junk or other unsightly debris,
 - Fences that are structurally unsound, dilapidated, or out of repair,
 - Other items or structures which depreciate property values and jeopardize or are detrimental to the health, safety, or welfare of the people of the City.
- The Council finds that blighted premises contribute to conditions that are dangerous to the public health, safety, and general welfare of the people and that such conditions necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection, and other public services and such conditions further cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.
- (18) **OPEN BURNING.** Open burning kindled or maintained in violation of §5.19 of the Code. (2119 05/27/03)

10.05A CHRONIC NUISANCE PREMISES 2484 (2/27/18)

- (1) Definitions. The following terms shall be defined as follows in this chapter:

- Chief. The Chief of Police or his or her designee.
- Enforcement Action. Arrest, the issuance of a citation, or the issuance of a written warning, or the issuance of an order to correct.
- Nuisance Activity. Any of the following activities, behaviors or conduct occurring upon a premises:
 - An act of Harassment, as defined in §947.013, Wis. Stats., or §9.947.013, Ordinances.
 - Disorderly Conduct, as defined in §947.01, Wis. Stats., or §9.947.01, Ordinances.
 - Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
 - Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.

5. Prostitution, as defined in §944.30, Wis. Stats.
6. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
7. Obstructing or resisting an officer, as defined in 9.22, Ordinances.
8. Noise violations as defined in 9.06, Ordinances.
9. Weapons offenses, as defined in §§9.02 and 9.03, Ordinances.
10. Animal violations of any kind, as defined in §§9.09, 9.10, and 12.13, Ordinances.
11. Fireworks, as defined in 9.05, Ordinances.
12. Underage alcohol activities, as defined in §12.02(15), Ordinances, or §12.02(1), Ordinances, adopting §125.07(1)(a)3, Wis. Stats.
13. Any conspiracy to commit, as defined in §9.015(1), Ordinances, or attempt to commit, as defined in §9.015(2), Ordinances, any of the criminal activities, behaviors, or conduct enumerated above.
14. Public nuisances offending morals and decency, as regulated by §10.04, Ordinances.
15. Public nuisances offending peace and safety, as regulated by §10.05, Ordinances.
16. Solid waste and recyclable offenses, as regulated by §11.07, Ordinances.

(d) Owner. The owner of the premises and his or her agents.

(e) Premises. An individual dwelling unit; any property or premises used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas thereof.

(2) Whenever the Chief determines that four (4) or more Police Nuisance Activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period, only the Chief may notify the premises owner and tenant in writing. In reaching this determination, the Chief shall not count nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Chief may initiate and implement the procedure and enforcement for Police Nuisance Activities under this

Chapter.

(3) The notice shall contain the street address including unit number if applicable or legal description sufficient to identify the premises, a description of the nuisance activities and enforcement actions that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

(4) The written notice shall be delivered to the owner of the premises by one of the following methods in descending order of preference: personal service, certified mail, first class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, in that order, as the Chief may determine appropriate under the particular facts and circumstances.

(5) Any owner receiving such notice shall personally meet with the Chief or with the Chief's designee, within five (5) days of receipt of such notice. The Chief and owner shall review the problems occurring upon the premises and/or property. Within ten (10) days of this meeting, the owner shall submit to the Chief a detailed written abatement plan designed to forthwith and effectively end all the nuisance activity upon the premises. The plan shall also specify a name, address, and telephone number of a person living within sixty (60) miles of the premises who can be contacted in the event of further police, fire, or inspection activities and/or contact.

(6) Additional nuisance activity. Whenever the Chief determines that:

(a) Additional nuisance activity and/or enforcement action has/have occurred upon a premises for which the written notice has been issued under this Ordinance; and

(b) This additional nuisance activity and/or enforcement action has/have occurred more than fifteen (15) days after the written notice was served; and

(c) Reasonable effort has not been made by the owner of the premises to abate the nuisance activity;

then the Chief may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such police and related City responses and enforcement including, but not limited to, actual burdened labor, overtime, materials, vehicle use, and related administrative time and efforts for this and any subsequent nuisance activities and enforcement actions upon, for and/or pertaining to the premises, but not to exceed \$5,000 for any single incident. The Chief shall then cause all such costs, fees and expenses to be charged against the owner of the premises and the premises itself, and if unpaid, charged, assessed, levied and collected by the City as a special charge against the premises/property.

(7) Appeal.

- (a) Appeal by Affected Property Owner. An affected owner of the premises may appeal the Police Chief's determination and invoiced special charges arising from and imposed for the police and related costs, fees and expenses set forth in this Ordinance in the manner set forth in this subsection.
- (b) The appeal shall be in writing, filed with the City Clerk, stating with specificity the grounds for the appeal and the relief requested. The appeal shall be filed within ninety (90) days of the invoice from the City Clerk.
- (c) The appeal shall be considered only if filed prior to the time that any unpaid special charges imposed against the premises/property under this chapter are turned over by the treasurer onto the tax roll.
- (d) Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal nor shall any other provision of state law or city ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.
- (e) Upon receipt of the written appeal, the Clerk shall set the matter for a public hearing before the Administrative Review Appeals Board constituted pursuant to Chapter 6, Ordinances, not less than thirty (30) days nor more than sixty (60) days after the filing of the written appeal.
- (f) The Clerk shall provide written notice to the appellant and to the Chief of

Police of such Administrative Review Appeals Board meeting hearing date, time and place.

- (g) The parties may agree to continuances and stipulations as to procedure and substance, but in no event shall the hearing be continued beyond the time set forth in subparagraph C.
 - (h) The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven years by the City Clerk. A party may request a court reporter but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.
 - (i) The appellant and the Chief of Police may each present witnesses who testify upon oath after being duly sworn-in by the City Clerk, the Deputy City Clerk or any other person authorized by law to administer oaths.
 - (j) After the hearing, the Administrative Review Appeals Board in open session shall deliberate and then make a determination by recorded motion, second and vote with a majority of Board voting governing.
 - (k) The City Clerk-Treasurer shall adjust all invoices, tax and related City records in accord with the Council's determination.
- (8) Violations – Penalties – Remedies – Injunctive and other relief. In addition to the special charges authorized and described above, the following penalties, remedies and other relief are cumulative and not exclusive, may be jointly and severally sought and/or employed by the City, and may be ordered and/or imposed, as applicable, by the courts:
- (a) First Offense. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit and pay to the City not less than \$100.00 nor more than \$500.00, together with the costs of prosecution.
 - (b) Subsequent Offenses. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within twenty four (24) months after committing a

previous violation shall forfeit and pay to the City not less than \$200.00 nor more than \$1,000.00, together with the costs of prosecution.

- (c) Each and every day that a violation occurs, continues and/or remains present constitutes a separate offense.
- (d) The City, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, abatement, and such other legal and/or equitable relief, remedies, judgments, and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time, deem necessary, appropriate and/or desirable to effectuate the intent of this chapter and the public good, peace, order, welfare, and/or safety.
- (e) In addition to the above penalties, relief and remedies, the Common Council may refuse to issue or not-renew any license or permit to the owner of the premises and/or the premises, after conducting a public hearing thereon.
- (f) It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premises property as expeditiously as possible, unless otherwise directed by the City or the court.
- (g) This chapter is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under City ordinances, state statutes, state administrative codes, and common law, including, but not limited to, forfeiture of the property to the City under this chapter and/or the applicable state statutes

10.06 JUNK, CERTAIN VEHICLES, RECREATIONAL EQUIPMENT AND FIREWOOD.

- (1) **PUBLIC NUISANCES DECLARED.** The following are hereby declared to be public nuisances wherever they may be found within the City.
 - (a) Any motor vehicle, truck body, tractor or trailer as enumerated in sub.

(3) and (4) below and defined in sub. (2) (a), (b) and (c) below.

- (b) Any junk stored contrary to sub. (5) below.
- (c) Any recreational equipment stored contrary to sub. (6) below.
- (d) Any firewood used or stored contrary to sub. (7) below.

- (2) **DEFINITIONS.** The following words, phrases and terms used in this section shall be interpreted as follows:

- (a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.
- (b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers that do not bear lawful current license plates.
- (c) Motor Vehicles. As defined in §340.01(35), Wis. Stats.
- (d) Junk. Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tires, tools, discarded building materials, or any other unsightly debris, the accumulation of which has an adverse effect upon neighborhood or City property values, health, safety or general welfare. (2031 10/10/2000)
- (e) Recreation Equipment. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.
- (f) In the Open. Land which may be viewed from public streets or adjoining property.

- (3) **STORAGE OF INOPERABLE VEHICLES, ETC.**

- (a) Restricted. No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open upon any public or private property in the City for a period exceeding 72 hours.

- (b) Exceptions.
1. Any business engaged in automotive sales or repair located in a properly zoned district may retain no more than 3 disassembled or wrecked vehicles in the open for a period not to exceed 30 days, after which such vehicles shall be removed.
 2. Junkyards licensed under §12.09 of this Code.
- (4) STORAGE OF UNLICENSED VEHICLES, ETC.
- (a) Restricted. No person shall accumulate, store or allow any unlicensed motor vehicle, truck body, tractor or trailer in the open upon any public or private property in the City for a period exceeding 72 hours.
- (b) Exceptions.
1. Any business engaged in the sale, repair or storage of such unlicensed vehicles in a properly zoned district.
 2. Garden tractors and mowers may be stored in the rear yard not less than 10 feet from any property line.
- (5) STORAGE OF JUNK PROHIBITED. No person, except a junk dealer licensed under §12.09 of this Code, shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the City.
- (6) STORAGE OF RECREATIONAL EQUIPMENT REGULATED. No person will store any recreational equipment on any street right of way or within the front setback, including the driveway, for a period of more than 48 hours.
- (7) STORAGE OF FIREWOOD.
- (a) Regulated. No person shall store firewood on any residential premises except for use on the premises. No firewood pile may be located within the front setback.
- (b) Exception. Any firewood pile located contrary to the provisions of par.(a) above on the effective date of this subsection need not be moved to a place of compliance until May 1, 1987.
- (8) ISSUANCE OF CITATION; ACTION TO ABATE. Whenever a Police Officer, Community Service Officer, or the Building Inspector shall find any such vehicle, junk, or recreational equipment, as defined in sub. (2) above, accumulated, stored, or remaining in the open upon any property within the City contrary to the provisions of subs. (3), (4), (5), or (6) above, or firewood stored contrary to sub. (7) above, he/she shall notify the owner or occupant of said party on which such vehicle, junk, recreational equipment, or firewood is located of the violation of this section. If such vehicle, junk, recreational equipment, or firewood is not permanently removed within 10 days after notice, a Police Officer shall be authorized to issue a citation to the property owner or the occupant of the lot or parcel upon which such vehicle, junk, recreational equipment, or firewood is located. An owner or occupant of a lot or parcel shall be entitled to only one ten-day notice to cure a violation of this Section occurring on a property within a calendar year and, in such case, a Police Officer shall be authorized to issue a citation to the owner or occupant of a lot or parcel immediately upon discovering any second or subsequent violation on said lot or parcel within a calendar year. Notice of a violation shall be deemed made upon mailing such notice by certified mail or by personal delivery, or by posting the notice on the property and mailing notice thereof to the owner or occupant by first class mail. Each day that a violation of this section continues shall be deemed a separate offense. In addition, action to abate such nuisance may be commenced as provided in §10.07 of this chapter. (2031 10/10/2000)
- (9) RELOCATING NUISANCE PROHIBITED. No person, after receiving notification of a violation of this section pursuant to subs (8) above, shall move and store in the open such vehicle, junk, recreational equipment, or firewood upon any other property, lot, or parcel within the City. A Police Officer shall be authorized to issue a citation to the owner or the occupant of the property upon which such vehicle, junk, recreational equipment, or firewood has been relocated in violation of this section. (2031 10/10/2000)
- (10) PENALTY. Any person who shall violate any of the provisions of this section or who shall permit or allow a violation of this section, shall be subject to a penalty as provided in §25.04 of this Code. (2031 10/10/2000)
- 10.07 ABATEMENT OF PUBLIC NUISANCES.**
- (1) ENFORCEMENT. It shall be the duty of the Chief of Police, the Fire Chief, the City Engineer, the Building Inspector, the Street

- Superintendent and Utility Superintendent, the Weed Commissioner and the City Health Officer to enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist. (1729 04/27/94, 2033 11/14/2000)
- (2) **SUMMARY ABATEMENT.**
- (a) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the Chief of Police, Fire Chief, Building Inspector, City Engineer, Street Superintendent or Utility Superintendent to serve notice on the persons causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance, or the owner or occupant of the premises where such nuisance is caused, permitted or maintained, to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the City shall cause the same to be abated and will charge the costs thereof to the owner, occupant and/or person causing, permitting or maintaining the nuisance, as the case may be. (1730 4/27/94, 2033 11/14/2000)
- (b) Abatement by City. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.
- (3) **ABATEMENT BY COURT ACTION.** If the inspecting officer shall determine that a public nuisance exists on private property, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he/she shall serve notice on the person causing or maintaining the nuisance and the owner of the property to remove the same within 10 days. Notification shall be deemed completed upon mailing notice by certified mail or by personal delivery or by posting the notice on the property and mailing notice by first class mail. If such nuisance is not removed within 10 days, he/she shall report such fact to the Mayor, who may direct the City Attorney to commence an action in Circuit Court for the abatement of the nuisance. (2031 10/10/2000)
- (4) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture or by a Police Officer issuing a citation for the violation as provided in §10.11 of this chapter. (2031 10/10/2000)
- (5) **COST OF ABATEMENT.** In addition to any other penalty imposed by this Code for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance. If the charge is not paid within 30 days of the date of billing, as additional administrative collection charge of 10 percent of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1 percent per month until paid and if notice to abate the nuisance has been given to the owner of the property where the nuisance occurred, such charge shall be extended upon the current or next tax roll as a charge for current services, as provided in §66.0627, Wis. Stats. (1687 04/22/93)
- 10.08 DISEASED AND INFECTED TREE CONTROL.**
- (1) **PUBLIC NUISANCES DECLARED.** The following are hereby declared to be public nuisances wherever they may be found within the City.
- (a) Any living or standing tree or part thereof infected with the Dutch Elm disease or other tree diseases.
- (b) Any dead diseased or infected tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective fungicide or insecticide.
- (c) Any living or standing female box elder, *Acer negundo*.
- (2) **NUISANCES PROHIBITED.** No person shall permit any public nuisance as defined in sub. (1) above to remain on any premises owned or controlled by him within the City.
- (3) **INSPECTION.** The City Forester may enter upon private premises at all reasonable times

for the purpose of carrying out any of the provisions of this section.

(4) ABATEMENT OF DISEASE
NUISANCES.

(a) Whenever the City Forester shall find, with reasonable certainty on examination or inspection, that any public nuisance as defined in this section exists within the City, he shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of the disease fungus or the insect pests or vectors known to carry such disease.

(b) Before abating any such nuisance on private premises or in any tree bank between the sidewalk and the curb, the City Forester shall proceed as follows:

1. If the Forester shall determine that danger to other trees from said nuisance is not imminent, he shall make a written report of his findings to the Commission who shall proceed as provided in §27.09(4), Wis. Stats.

2. If the Forester shall determine that danger to other trees within the City is imminent, he shall notify the owner or abutting owner of the property on which such nuisance is found in writing, if he can be found, otherwise by publication in the official City newspaper that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice unless the Forester shall find that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limited, the Forester shall cause the abatement thereof.

(c) No damage shall be awarded to the owner for destruction of any tree, wood or material or any part thereof pursuant to this section.

(5) SPRAYING OF TREES.

(a) Whenever the Forester shall determine that any tree or material within or near the City is infected with

a disease, he may cause to be sprayed all high value trees within a 1,000 foot radius thereof with an effective spray, provided such spraying shall be performed prior to July 15 or after October 15 of any year.

(b) Before causing the spraying of any tree on private property in accordance with this section, the Forester shall notify the owner, as provided in §(4)(b)2, above.

(6) ASSESSMENT OF COSTS OF
ABATEMENT AND SPRAYING.

(a) The entire cost of abating any public nuisance as defined in sub. (2) above or of spraying any tree in accordance with sub. (4) above may be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with §66.60(16), Wis. Stats.

(b) The Forester shall keep strict account of the costs of work done under this section and shall report monthly to the City Clerk all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk shall include in his report to the Council the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against such parcels or lots in the same manner as other special taxes.

10.09 WEED CONTROL.

(1) NOXIOUS WEEDS AND RANK GROWTH PROHIBITED. No owner or occupant or any lot or parcel shall allow such property to become overgrown with any weeds or grass so as to constitute a public nuisance, as defined in §10.03(8) of this chapter

(2) NOTIFICATION. The Mayor shall annually, on or before May 15, publish a Class 2 notice, under Ch. 985, Wis. Stats., that every person is required by law to destroy all noxious weeds and other rank growth of vegetation as defined in §10.03(8) of this chapter, on lands in the City which he owns, occupies or controls.

(3) ENFORCEMENT. If a property owner fails to control the growth of such weeds or rank growth of vegetation on his/her

- property, the Weed Commissioner shall provide the property owner with written notice as to this fact. The notice shall be mailed by first class mail, postage prepaid, to the address of the property owner as shown on the City tax rolls. If such owner fails to abate this nuisance within six (6) days after the mailing of the notice, the Weed Commissioner shall take action to abate such public nuisance. In addition to an action to abate such public nuisance, the Weed Commissioner or a Police Officer may issue a citation to a property owner who fails, neglects, or refuses to destroy noxious weeds or rank growth of vegetation from his/her property and each day that a violation continues after notification to the property owner as provided in this sub-section shall be deemed a separate offense. (1939 06/09/98)
- (4) COSTS. If the City causes a nuisance to be removed as provided in Sub. (3) above, the actual cost thereof, together with an administrative fee equal to 10% of the actual cost, with a minimum charge of \$50.00 shall be charged to the property owner. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes, pursuant to §66.0517, Wis. Stats. (2361 07/26/2011)

10.10 DISCHARGE AND CLEANUP OF HAZARDOUS MATERIALS

(2032 10/10/2000; 2389 11/24/2013)

- (1) DEFINITION. Hazardous material means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental entity, the State of Wisconsin, or United States government. The term "hazardous material" includes, without limitation, any material or substance that is:
- (a) Defined as a "hazardous substance" or "hazardous waste" under any local or state statutory, administrative, or other law provisions,
 - (b) Petroleum,
 - (c) Asbestos,
 - (d) Designated as a "hazardous substance" pursuant to §311 of the Federal Water Pollution Control Act,
 - (e) Defined as "hazardous waste" pursuant to §1004 of the Federal Resource Conservation and Recovery Act,
 - (f) Defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, or
 - (g) Defined as a "regulated substance" pursuant to Subch. IX, Solid Waste Disposal Act (regulation of underground storage tanks).
A hazardous material further includes material which is toxic, carcinogenic, or flammable, irritants and strong sensitizers and materials which generate pressure because of decomposition or heat, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid, or gas creating a hazard, potential hazard, or public nuisance, or any solid, liquid, or gas having a deleterious effect on the environment. Included within this definition are containers and receptacles previously used in the transportation, storage, use, or application of material defined herein as a hazardous material.
- (2) PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged, leaked, or spilled any hazardous material upon any public or private street, alley, public or private property, or into the groundwater, surface waters, subsurface waters, or aquifers within the City, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials. (2077 02/26/02)
- (3) CONTAINMENT, CLEANUP, AND RESTORATION. Any person in violation of Subs. (2), above, shall, upon direction of any Police, Fire, Emergency Government, or Public Health official, begin immediate actions to contain, cleanup, and remove to an approved repository the offending material or materials and restore the site to its original condition, with the offending person, firm, or corporation being responsible for all expenses incurred. Should any person fail to engage the necessary personnel and equipment to comply or complete the requirements of this section, the Police, Fire, or Emergency Government Departments may order the required actions to be taken by public or private resources, without taking bids, and allow the recovery of any and all costs incurred by the City as action imposed by subsection (4).

- (4) **EMERGENCY SERVICES RESPONSE.** Emergency Services Response includes, but is not limited to: Fire Service, Public Works Department, Emergency Medical Service, and Law Enforcement. A person who possesses or controls a hazardous material which is discharged or who causes the discharge of a hazardous material shall be responsible for reimbursement to the responding agencies for actual and necessary expenses incurred in carrying out their duties under this section. Actual and necessary expenses may include but not be limited to: replacement of equipment damaged by the hazardous material, cleaning,

decontamination and maintenance of the equipment specific to the incident, costs incurred in procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous material in the evaluation of response, decontamination, clean up and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agencies' medical advisor. The City may charge such costs to the owner of the property if the discharge was caused by a tenant, invitee, or permittee to the property.

- (5) **SITE ACCESS.** The Owner, Lessee, or Occupant of any site, public or private, where a prohibited discharge is occurring or where there is probable cause to believe that such discharge is occurring shall provide access to personnel of the Police Department, Fire Department, Emergency Government Department, and Public Works Department of the City for the purpose of evaluating the threat to the public health and safety and to monitor the containment, cleanup, or restoration activity needed for the protection of public health or safety. In the event voluntary access is not granted by the owner, lessee, or occupant, the appropriate officer of the Police or Fire Department may obtain an administrative search warrant and, after receiving the same, may enter the premises.
- (6) **PUBLIC PROTECTION.** Should any prohibited discharge occur that reasonable causes a threat to the life, safety, welfare, or health of the public, a Police or Fire Department officer or employee on the scene may order an evacuation of the area or take other appropriate protective steps for such period of time as needed until the Mayor, Common Council, or Emergency Government officials can act.

- (7) **ENFORCEMENT AND PENALTY.** A Police or Fire officer shall have the authority to issue citations or complaints under this section and any person who shall violate any of the provisions of this section or who shall permit or allow a violation of this section, shall be subject to a penalty as provided in §25.04 of this Code.

- (8) **CIVIL LIABILITY.** Any person who violates this section shall be liable to the City for any expenses incurred by the City and loss or damages sustained by the City by reason of such violation. In addition to any other penalty imposed by this Code for the containment, cleanup, evacuation, and restoration under-taken under this section, the expenses incurred by the City or loss or damage incurred by the City by reason thereof shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the violation. If the charge is not paid within thirty (30) days of the date of billing, an additional administrative collection charge of 10% of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1% per month until paid and if notice to contain, clean up, and restore has been given to the owner of the property where the discharge or nuisance occurred, such charge shall be extended upon the current or next tax roll as a charge for current services, as provided in §66.0627, Wis. Stats. The administrative collection charge and interest shall not accrue against an owner of property for the actions of a tenant, invitee, or permittee, unless the owner has been provided with written notice of the charges. An owner shall have the right to dispute the charges before the Administrative Review Committee, but the only issues that may be determined by the Committee shall be the status of the person who caused the fire, and the reasonableness of the charges.

10.11 PENALTY. In addition to the penalties provided in this chapter, any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as provided in §25.04 of this Code. (2032 10/10/2000)

10.12 PROHIBITION ON USE OF OUTDOOR WOOD-FIRED BOILER (2219 01/24/06, 2222 03/28/06, 2230 07/11/2006)

- (1) For purposes of this ordinance, the following definitions shall apply:
- (a) An "outdoor wood-fired furnace" means a wood-fired furnace, stove, or boiler that is not located within a building intended for habitation by humans or domestic animals, and is regularly used to heat water, or some

other substance, that is then conveyed to directly or indirectly heat a building or to heat water. This definition shall not include a furnace or stove providing direct radiant heat, used occasionally for area heating within an accessory building

(b) “Nuisance” means to substantially annoy, injure or endanger the comfort, health, repose or safety of anyone residing or working within 200 feet of the property with the outdoor wood-fired furnace.

1. No person shall install, use or maintain an outdoor wood-fired furnace in the City of Baraboo.
2. If an existing outdoor wood-fired furnace was installed and operational prior to the effective date of this ordinance the furnace may be permitted as a non-conforming installation. In that case, the owner of the outdoor wood-fired furnace shall obtain an annual permit in accordance with subsection (4) of this ordinance. A burning permit for a non-conforming installation shall require that the existing outdoor wood-fired furnace may not cause a nuisance. If the City of Baraboo determines that a non-conforming installation is causing a nuisance pursuant to the procedures as set forth in subsection (5) of this ordinance, the permit shall be revoked.
3. Permitting of Existing Furnace. Any person with an outdoor wood-fired furnace installed and operating prior to January 10, 2006, may apply for a permit to retain the use and operating of the furnace. The permit shall be issued by the City Clerk based upon an application form provided by that office. Permits issued pursuant to this section shall not be transferable to the new owner of an existing furnace. Outdoor wood-fired furnaces shall be subject to the prohibition on the burning of certain materials as set forth in §5.19(5), Code of Ordinances.

4. Procedure to Revoke Permit. In the event that a complaint is received by the City as to the operation of any outdoor wood-fired furnace with a permit, the complaint shall be referred to the Fire Chief for investigation. The Fire Chief shall then determine whether the operation of the furnace is a nuisance, as defined by this ordinance. In the event that the Fire Chief determines that the operation of the furnace is a nuisance, notice of the revocation of the permit shall be provided to the holder of the permit by certified mail. The holder of the permit shall have the right to appeal the determination of the Fire Chief as to nuisance by filing a petition for review with the Administrative Review Appeals Board of the City as established in Chapter 6, Code of Ordinances, within 15 days of the date of delivery of the notice of revocation.
5. Any person who shall violate any of the provisions of this section or who shall permit or allow a violation of this section, shall be subject to a penalty as provided in §25.04 of this Code.